

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of BABY BOY TROY, a/k/a
CAMERON BELIN, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

SHERRY TROY,

Respondent-Appellant,

and

EARL BELIN,

Respondent.

UNPUBLISHED

September 29, 2000

No. 221563

Oakland Circuit Court

Family Division

LC No. 97-063695-NA

Before: Cavanagh, P.J., and Saad and Meter, JJ.

MEMORANDUM.

Respondent-appellant appeals as of right from the family court order terminating her parental rights to the minor child under MCL 712A.19b(3)(c)(i) and (g); MSA 27.3178(598.19b) (3)(c)(i) and (g).¹ We affirm.

The trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. MCR 5.974(I); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Pervasive evidence that respondent-appellant acquired neither a full appreciation for the child's extraordinary medical needs, nor elementary skills in tending to them, despite encouragement and opportunities throughout the history of this case, suggests that the serious medical

¹ The trial court also terminated the parental rights of the father, respondent Earl Belin, but he has not appealed that decision and is not party to this appeal.

neglect that gave rise to this case initially was likely to continue if the child were left in respondent-appellant's care. For the same reasons, we conclude that the trial court did not clearly err in concluding that termination was not clearly against the child's best interests. MCL 712A.19b(5); MSA 27.3178(598.19b)(5); *In re Trejo Minors*, 462 Mich ____; 612 NW2d 407 (Docket No. 112528, issued 7/5/2000), slip op at 17. We note also that the evidence indicated that respondent-appellant consistently failed to maintain suitable housing or employment.

We further reject respondent-appellant's unpreserved argument that her trial lawyer's failure to provide closing argument at the best-interests hearing constituted ineffective assistance of counsel requiring reversal. Although it may not have been sound strategy to forego closing argument, it is doubtful that the hearing referee, having long presided over the case, would have been influenced by any last minute rhetoric after hearing the evidence at the best-interests hearing. The lack of closing argument did not render the proceeding fundamentally unfair or unreliable. See *In re Simon*, 171 Mich App 443, 447; 431 NW2d 71 (1988) ("In analyzing claims of ineffective assistance of counsel at termination hearings, this Court applies by analogy the principles of ineffective assistance of counsel as they have developed in the criminal law context."), and *People v Messenger*, 221 Mich App 171, 181; 561 NW2d 463 (1997) (a party alleging ineffective assistance of counsel must show that the result of the proceeding was fundamentally unfair or unreliable, and that, but for counsel's poor performance, the result would have been different).

Affirmed.

/s/ Mark J. Cavanagh
/s/ Henry William Saad
/s/ Patrick M. Meter